

FYI Sales 80

Telephone and Telecommunications

GENERAL INFORMATION

Intrastate telephone, telegraph services (service beginning and ending within Colorado) are subject to the Colorado state sales tax. Private line and cellular telephone services that operate for the transmission of data are also taxable. The company providing the service must charge and collect the sales tax from customers at the rate applicable for the service address. [§39-26-104(1)(c) C.R.S.]

Interstate telephone, telegraph and telecommunications services are not subject to the Colorado sales tax.

For telephone and telegraph services, when nontaxable (interstate) services are aggregated with and not separately stated from taxable (intrastate) services, the provider of such services shall collect the tax on intrastate telephone and telegraph services. The provider of such services shall maintain for three years documentation (subject to audit) of the services provided that are taxable (intrastate) and nontaxable (interstate). The service provider shall notify the department of the percentages of taxable (intrastate) and nontaxable (interstate) services in a package of aggregated services within thirty days of use on any invoice. [§39-26-104(1)(c)(IV) C.R.S.]

PHONE CARDS AND PREPAID WIRELESS

The purchase or sale of a prepaid phone card is generally a taxable sale in Colorado because the telephone service being provided is subject to sales tax. The only exceptions where a prepaid phone card is not subject to sales tax are:

- The telephone service will be provided by a telephone company registered to collect Colorado sales tax and the
 card is denominated in dollar amounts rather than call time. In this case using the card is like putting coins in a
 pay phone; the sales tax will be taken from the amount of the card received by the phone company at the time a
 taxable telephone call is placed.
- The prepaid phone card cannot be used to make calls originating and terminating within Colorado. (At this time, cards that meet these criteria are not available for sale in Colorado.)
- Prepaid wireless service denominated in dollars is not subject to sales tax because the sales tax will be taken from the amount when the wireless service is used. There is a 911 surcharge on wireless of 1.4%

On the sale of a prepaid phone card that is subject to sales tax, the state and local tax rate where the sale takes place must be collected.

BUNDLED SERVICES

If the taxable and non-taxable items are bundled together under one price and separately stated on the invoice, only those taxable items are subject to sales tax. However, if taxable and nontaxable charges are bundled together and sold under one price and NOT separately stated on the invoice, the entire price will be subject to sales tax.

INTERNET ACCESS

Colorado does not tax Internet access services. Internet access, e-mail services, Web site hosting and domain name registration are nontaxable services. However, if an Internet Service Provider (ISP) is located in Colorado and sells tangible personal property, for example a cable modem, to customers in Colorado, then sales tax must be charged on those items. [§39-26-104 C.R.S.]

WHOLESALE SALES OF TELEPHONE SERVICES

Wholesale sales of telephone services by a local telephone company to another company who retails these services as intrastate telephone service are not subject to sales tax. Purchases of telephone services at wholesale by companies using such services exclusively to provide a local dial tone service to customers at retail are not subject to sales tax because the retail sale of the telephone service is taxable. The company requesting a resale exemption must be able to document that such exemption will be used only for resale of taxable services.

ACCESS CHARGES

Purchases of local access for interstate long distance calling are taxable because the access is used to provide an exempt interstate call. Purchases of access for intrastate calls are exempt because the intrastate call is taxable. [AT&T v. Department of Revenue, 778 P.2d 677, (Colo. 1989)]

MOBILE TELECOMMUNICATION SERVICES

Sales tax on mobile telecommunication services will be assessed using the local tax rate of the customer's place of primary use. This will usually be the customer's residence or billing location. [§29-1-1002 C.R.S.]

Effective January 1, 2011 a wireless 911 surcharge of 1.4% is due on all sales to consumers of prepaid wireless sales transacted in Colorado, delivery of prepaid wireless to consumers with a Colorado address, sales of prepaid wireless to consumers with a Colorado address, or sales of prepaid wireless for a mobile telephone number associated with a Colorado location. Retailers of prepaid wireless must submit the 1.4% surcharge on the Prepaid Wireless E911 Surcharge Return (DR 0526).

PAGING SERVICES

One-way paging service is not considered telephone service and is not subject to state sales tax. Any rental charge or sale of the pager is subject to the sales tax on the sale or rental of tangible personal property. Two-way paging is taxable the same as telephone or telegraph services.

TAXABLE MISCELLANEOUS CHARGES

- Additional Listings: These charges are subject to state sales tax.
- Business and Occupational Fees: These charges are taxable and passed to the customer from the service provider.
- Call Waiting: These charges are subject to state sales tax.
- Faxing Services: Faxing services are exempt. However, the local telephone services used to access the service and any equipment used is taxable.
- Information charges: These charges are subject to state sales tax.
- Installation or Repair Charges: These charges are exempt from state sales tax.
- Joint-User Service: These charges are subject to state sales tax.
- Non-Talking Circuits: These charges are subject to state sales tax.
- Leased Circuits and Facilities: These charges are subject to state sales tax.
- Local Exchange Service: These charges are taxable whether on a flat or measured basis.
- Service Connection Charges: These charges are subject to state sales tax.
- Subscriber Line Charges (SLC): These charges are subject to state sales tax.
- TDD Charges: These charges are subject to state sales tax.
- USF (Universal Services Fee) state or federal: These charges are subject to state sales tax.
- 911 Charges: These charges are subject to state sales tax except on prepaid wireless.

TAX EXEMPT MISCELLANEOUS CHARGES

- Teleconferencing Charges: Teleconferencing services are exempt. However, the local telephone services used to access the service and any equipment used is taxable.
- Voice Mail Charges: Voice mail/ answering services are exempt. However, the local telephone services used to access the service and any equipment used is taxable.
- 900 Telephone Service: These charges are only taxable if both parties are located within Colorado.
- 911 Charges: These charges are only exempt from Colorado sales tax for prepaid wireless.

LOCAL SALES TAXES

The Colorado Department of Revenue is responsible for collecting and administering local sales taxes for all counties, statutory cities and special districts that impose a sales tax. Certain home-rule cities administer and collect sales tax locally. The Colorado Department of Revenue has no jurisdiction over sales and use taxes imposed by home-rule cities if the state does not administer those taxes. This FYI does not address the local taxes of self-administered home-rule cities. You must contact a home-rule jurisdiction directly to obtain its tax regulations. For information on local sales tax rates, see Colorado Sales/Use Tax Rates (DR 1002).

FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter, or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having the authority to bind the Department, has not formally reviewed and/or approved these FYIs.